DOCUMENT RESUME

ED 176 519 EC 120 689

TITLE Special Education Classification and Standards Project.
INSTITUTION New York State Education Dept., Albany.
PUB DATE May 79
NOTE 22p.

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Classification; Elementary Secondary Education; *Handicapped Children; Individualized Programs; *Labeling (of Persons); *School Services; Staff Utilization; *Student Evaluation; *Student Placement
IDENTIFIERS *New York

ABSTRACT

Developed by the New York State Education Department at the University of the State of New York, the document presents preliminary study findings which recommend the removal of the current definition of "a handicapped child" and categorical labels such as "neurologically impaired". Modifications are suggested which strengthen the present screening, referral, evaluation, assessment, and the individualized education program processes. A set of program services which provide a range of special education alternatives from the most to the least specialized are considered. The need for initiation of more flexible staffing standards based on a differentiated staffing concept and related to the amount of time students spend in special education program alternatives is stressed. (Author/SBH)

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ASSISTANT COMMISSIONER FOR
EDUCATION OF CHILDREN
WITH HANDICAPPING CONDITIONS

May 29, 1979

TO: Superintendents of Public and Nonpublic Schools and
District Superintendents
Principals of Public and Nonpublic Schools
Directors of Special Education

FROM: Louis Grumet

SUBJECT: Special Education Classification and Standards Project

As you may be aware, this office has initiated a project to study the current laws and regulations affecting the education of children with handicapping conditions. This project has sought the widest possible input in an effort to develop more appropriate ways to classify and serve children according to their special educational needs.

Another effort proceeding on a parallel track is being conducted jointly by this Office and the Office of Educational Finance, Management and School Services and involves the collection of finance data related to the costs of educating children with handicapping conditions. Chapter 786 of the Laws of 1978 authorized such a review and required submission of a plan by the Board of Regents to the Legislature and the Governor on or before November 1, 1979. A schedule has been determined whereby concept papers would be presented and reviewed on a continuous basis by field personnel concurrent with the data collection effort.

The attached Concept Paper: Classification, Standards and Program Services presents preliminary findings which recommend the removal of the current definition of "a handicapped child" and categorical labels such as "neurologically impaired, emotionally distrubed", etc., and substitute definitions of " . . . a child identified as needing special education." Modifications are suggested which strengthen the present screening, referral, evaluation, assessment and the IEP processes. A set of program services which provide a range of special education alternatives from the most to the least specialized are recommended. An important recommendation is the initiation of more flexible staffing standards based on a differentiated staffing concept and related to the amount of time students spend in special education program alternatives.

Specific definitions and staffing standards are not yet firm and we welcome your input in these areas. Future proposals will address those areas, as well as the areas of teacher certification, class size, staffing ratios and other aspects of program delivery. Specific proposals will be advanced to the Regents in September, 1979.

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EC 130689

Your reactions and comments to these preliminary findings are encouraged. Please forward your comments and reactions to:

Dr. Robert L. Guarino
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cc: Commissioner's Advisory Panel
Directors of Pupil Personnel Services

Louis Grumet

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12234

DEPUTY COMMISSIONER FOR
ELEMENTARY, SECONDARY
AND CONTINUING EDUCATION

May 14, 1979

Item for Discussion

SPECIAL EDUCATION CLASSIFICATION AND STANDARDS PROJECT

To the Commissioner of Education:

Attached is information regarding the Education Department's project to study the methods of identification of handicapped students and the funding of these children. This report indicates preliminary findings. After further study and review, we will have proposals for The Board of Regents to consider in September, 1979.

Respectfully submitted,

Robert R. Spillane
Deputy Commissioner

APPROVED:

Commissioner of Education

May 14-79
Date

DRAFT

May 14, 1979

SPECIAL EDUCATION CLASSIFICATION AND STANDARDS PROJECT
Division of Supervision
Office for Education of Children with Handicapping Conditions
State Education Department
Albany, New York

CONCEPT PAPER: CLASSIFICATION, STANDARDS AND PROGRAM SERVICES

INTRODUCTION

The Board of Regents is committed to the provision of equal educational opportunity for all children. Essential elements of this commitment are the identification, referral, evaluation and placement of children in need of special education, thereby insuring them a free appropriate public education.

A significant step in achieving this objective has been implementation of a system with key responsibilities in local school districts and Committees on the Handicapped which are responsible for the identification, classification and recommended placement of children with handicapping conditions as provided in Chapter 853 of the Laws of 1976.

As the system has developed in the past three years and as district Committees on the Handicapped have become more adept in carrying our their duties, two major questions have arisen. How can children with handicapping conditions be identified for special services with a minimum of stigma related to the process and fact of such identification? How can each child be best provided a free appropriate education in the least restrictive environment?

The Legislature and Governor have authorized a review of these questions in Chapter 786 of the Laws of 1978. This status report indicates the progress of that review. The key questions are answered through the proposal of a new system of determining eligibility and for providing program services.

The structure and format of this proposal reflects the assumption that special education is closely aligned with regular education programming. The educational program designed for a child in need of special education should be closely correlated with regular education so that common efforts benefit all children.

The proposal provides a greater role for the process of establishing Individual Education Programs (IEP) in the total delivery of services to children with special educational needs. The IEP process provides a way to place children based on needs rather than categorical labels.

The proposal provides also for establishing a set of program services ranging from the most to the least specialized. Once the COH and the parent establish the first phase of the IEP for the child, a placement within the appropriate service pattern of the set would result. The set provides seven options for placement and a transitional service for the many children who develop the capacity to return totally to regular education. The proposal emphasizes placement within the least restrictive environment, specific to a child's functional level and needs.

This review and the data collection mandated under Chapter 786 are proceeding under the following schedule:

1. 8/78 - Initiation of Classification and Standards Project.

2. 12/78 - Enactment of Chapter 786.

   1/79 - Presentation to Regents-First Status Report on Project.

   2/79-
   4/79 - 1. Initiation of Excess Cost Data Collection Forms and Workshops.
   2. Counsel from field at state plan hearings.
   3. Continuation of collection of data from field.
   4. Development of Concept Paper.

3. 5/79 - Presentation of Concept Paper on Standards and Classification.

4. 6/79 - Return of Excess Cost Data to SED.

5. 6/79-
   8/79 - 1. Analysis of Excess Cost Data.
   2. Continuation of development of paper on Standards and Classification.

6. 8/79 - Synthesis of Excess Cost Data and Concept Paper for Regents Legislation Program.

7. 9/79 - Presentation of Draft State Legislative Proposal for Regents review.

8. 10/79 - Regents second consideration of Legislative Proposal.

9. 11/79 - Presentation of Legislative Proposal to New York State Legislature as required by Chapter 786.

The schedule has been determined by legislative mandates, accessibility to information, data collection, and continuous review by field personnel. Chapter 786, the temporary public school excess cost bill, mandates " . . . that the Board of Regents submit to the Governor and the Legislature on or before November 1, 1979 a plan which will implement the identification of costs of providing educational and related services to pupils with handicapping conditions".

ELIGIBILITY FOR SPECIAL EDUCATION

Presently, in order to benefit from special education services, a child must be designated as "a child with a handicapping condition" and must further be classified according to labels such as mentally retarded, emotionally disturbed, etc. This process often causes children to be unnecessarily stigmatized both in school and in their neighborhoods. Furthermore, labels have little or no relevance to educational programming and do not reflect the services that may be extended to children in particular special education programs. In order to minimize the stigmatizing of children who are in need of special education, the current definitions for eligibility should be modified.

The following definition is proposed as the threshold for establishing a child's eligibility for special education.

A child identified as needing special education means a child under the age of 21 who is entitled to attend public schools pursuant to section 3202 of the Education Law and who has been identified through appropriate evaluation and assessment as having an impairment arising from cognitive, emotional or physical factors, or any combination thereof which interferes with the child's ability to benefit fully from regular education programs.

Once a child is identified as needing special education, it becomes the responsibility of the local school district, in cooperation with the child's parent(s), to develop a program that specifically provides for the individual child's needs. Therefore, special education should be defined as follows:

Special Education means an individualized education program specifically designed to guarantee equal educational opportunity to a child unable to benefit fully from regular educational programs without the addition of special services, programs and/or related services.

Individually designed instruction insured by due process is the right of each child in need of special education. In order to design such instruction, effective procedures must be established for identifying children who may be eligible. Identification is the most vital link between regular and special education. If special education consists, as it has been presumed to, of programs and services in addition to regular education, identification must effectively bridge both systems.

In order to strengthen the link between regular and special education, screening at the entry level of the educational system should be mandated by the addition of measures which assess children developmentally. Secondly, a referral system should clearly designate the responsibility of individuals from initiation of referral to placement. Thirdly, processes and procedures should be implemented to strengthen accountability measures for evaluation assessment and placement.

SCREENING

Screening is the process of distinguishing, from the regular school population, children who appear to need additional individualized testing and/or possible special education services in addition to regular education in order for them to receive equal educational opportunity.

The identification process is implicit in the mandate that children in need of special education receive a free appropriate public education and related services designed to meet their special needs. Screening is a vital step in the process of identification.

Section 904 of Article 19 of the Education Law directs the public school to "carefully" examine and test all pupils "who have not furnished health certificates as provided in Section 903", or who are handicapped children as defined by Article 89. The following is recommended as requirements to strengthen the screening component of the Education Law.

Screening Components

(a) Each school district shall conduct, at least annually, but no later than October 31 of each school year or thirty days from student entry, a screening of all kindergarten and entry level children.

(b) Each school district shall conduct a screening program which consists of the following elements:

1. A physical examination pursuant to the provisions of the Education Law 904.

   (i) Such examination shall test specifically for deficits in visual, auditory, and motor functioning.

   (ii) A review of all relevant data regarding the child's medical history.

2. An appropriate language development assessment test.

3. A review of medical and social history information regarding the child's developmental milestones obtained from the child's parent, physician or other appropriate professionals or agencies.

Screening Responsibilities

A. The chief school officer or his/her designee shall be responsible for the implementation and administration of the annual screening program.

B. The chief school officer or his/her designee shall be responsible for submitting a referral to the Committee when further evaluation and/or individual testing is necessary, as determined through screening, and for notifying the parent or guardian of the child after such determination is made.

C. The chief school officer or his/her designee shall be responsible for appointing appropriately certified and qualified professionals to administer screening.

D. The chief school officer or his/her designee shall be responsible for all notification provisions pursuant to section 200.5 of the Regulations of the Commissioner.

E. The chief school officer or his/her designee shall be responsible for compiling a record of screening results for all children indicating which children have been referred to the Committee for further evaluation.

REFERRAL

A referral shall mean any form of written notice between a child's parent or guardian; parent surrogate; a professional staff member of the school district, which would include a referral from the chief school officer or his or her designee based on results of the screening procedure; a judicial officer; the Commissioner or designees of another public agency with responsibility for welfare, health, or education of children; a licensed physician; or the individual himself if over the age of 18, and the principal of the child's school, that there is reason to believe that such child may be in need of special education. A copy of the referral shall be submitted to the chairperson of the Committee on the Handicapped.

In those instances where the child is already enrolled in a regular school program, it shall be the responsibility of regular education specialists to demonstrate to the Committee on the Handicapped how, and to what extent, the child being referred has been unable to succeed in the regular or compensatory educational programs. A specific statement of the extent and type of remedial instruction given to the child shall be included in the referral to the Committee on the Handicapped whenever possible.

EVALUATION

After the written referral is received, a written notice must be sent by the Chairperson of the Committee on the Handicapped to the parents or guardian providing a thorough explanation of the proposed evaluation process. Written consent of the parents or guardian is required before the evaluation can begin. If no written consent is obtained, a hearing should be held pursuant to Section 200.5 of the Regulations of the Commissioner of Education.

The evaluation must adhere to the following procedures:

1. Testing and evaluation materials and methods must be selected and administered so as not to be racially or culturally discriminatory.

2. All communications with parents, guardians, and the child shall be in English or the native language of the home. Interpreters, in the native language, and/or in sign language shall be used where appropriate.

3. Tests and other evaluation materials must:

   (a) have been validated for the specific purpose for which they are used;

   (b) be tailored to assess specific areas of educational need;

   (c) be administered by qualified personnel;

   (d) accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure and accurately reflect instructional planning;

   (e) not be based on a single procedure or test; and

   (f) be reviewed by a multidisciplinary team including at least one specialist in the area of suspected impairment.

ASSESSMENT

When the evaluation process (testing, collection of social, medical, developmental data, etc.) is completed, each evaluator shall prepare a written report reflecting his assessment to be presented at the Committee on the Handicapped meeting. The assessment of the data collected should provide answers to the following questions regarding eligibility:

1. Does the child have an impairment?

2. Does the child require special education and/or related services in addition to regular education?

The assessment should also provide a basis for planning in specific components of the child's Individualized Education Program. The evaluators should keep in mind that the data they present will be used to make critical decisions and to create the Individualized Education Program. Therefore the evaluator shall specify the following elements:

1. A statement of present levels of performance,

2. The implications of such levels for eligibility and programming,

3. Recommendations for goals/objectives and special instructional techniques, and,

4. Specific supportive data and documentation.

COH RESPONSIBILITIES FOR EVALUATION AND PLACEMENT

1. To fully notify a parent in writing that evaluative information is being sought regarding a child thought to be handicapped.

2. To include a description of the proposed evaluation in the notice together with the uses to be made of the information.

3. To obtain a written consent from the parent(s) prior to initiation of a proposed evaluation for potential placement in a special education program.

4. To determine if a child has an impairment based on an appropriate assessment to be completed within thirty days of receipt of the written referral.

5. To determine the educational program needs of the child.

6. To determine the child's level of educational performance.

7. To determine the least restrictive environment appropriate for the child.

8. To determine the specific educational and related services needed by the child.

9. To identify services needed by the child with an explanation of why such service is needed; to determine the amounts and types of services, their duration and frequency.

10. To prepare Phase I of the Individualized Education Program based on the above.

11. To monitor the development and implementation of the Individualized Education Program (Phase II) which shall be developed within 30 school days of placement at a planning conference conducted in accordance with the Commissioner's Regulations.

INDIVIDUALIZED EDUCATION PROGRAM - PHASE I

The following portion of the Individualized Education Program shall be written by the Committee on the Handicapped, parents, and other appropriate professionals at a Committee meeting prior to the determination of a specific program recommendation for the child. Every effort shall be made to obtain parental participation in this process.

1. A statement of the child's present levels of educational performance, academic achievement, social adaptation, and prevocational and vocational skills, psychomotor skills and self-help skills, if applicable.

2. A statement of annual goals that describes the educational achievement to be reached by the end of the school year.

3. A statement of specific educational services needed by the child, including a description of all special education and related services that are needed to meet the special needs of the child, including the type of physical education program in which the child will participate.

4. The date when those services are to begin and the length of time the services are to be given.

5. A description of the extent to which the child will participate in regular education programs.

INDIVIDUALIZED EDUCATION PROGRAM - PHASE II

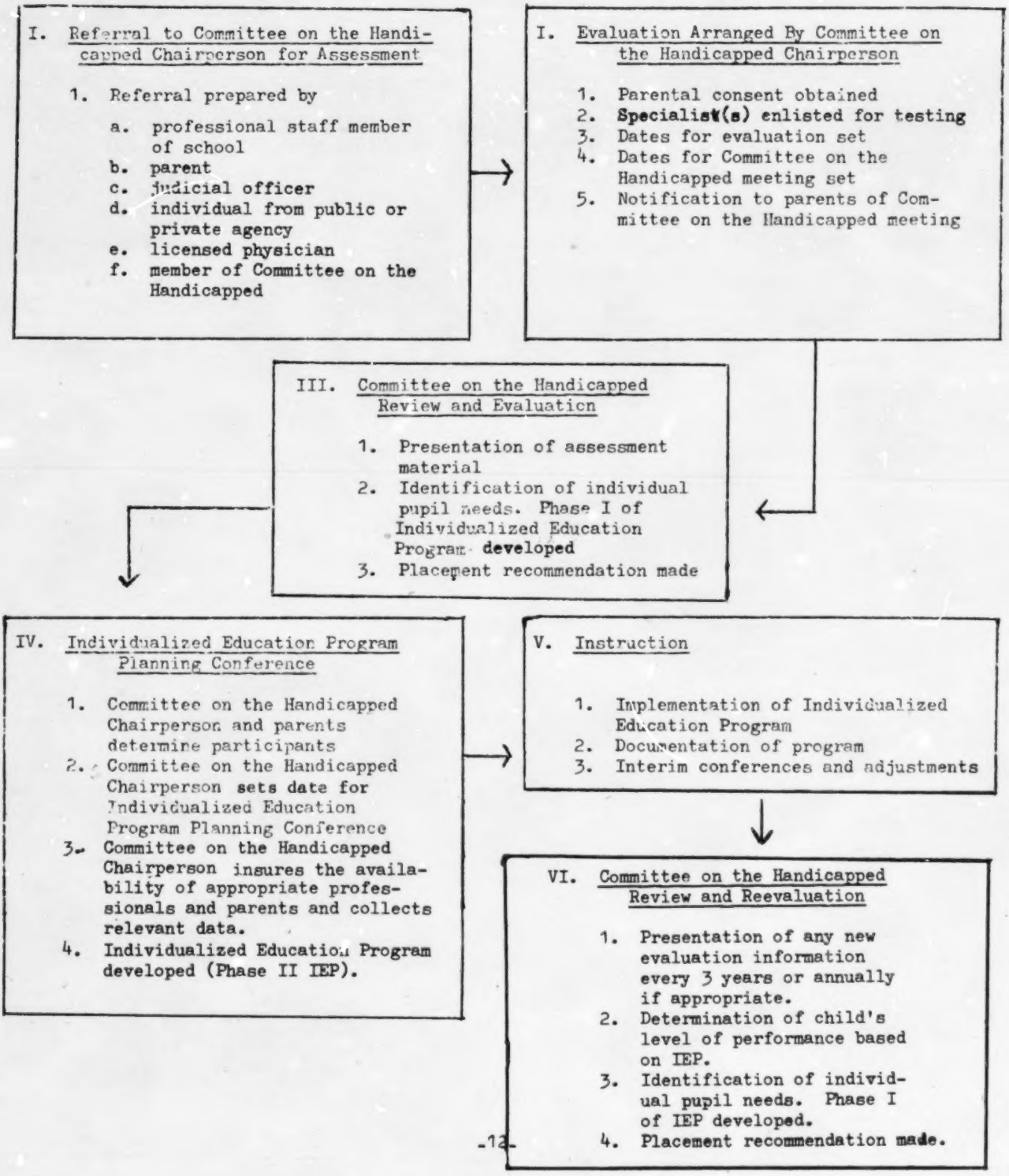
The following portion of the Individualized Education Program shall be written at the planning conference which shall include, but not be limited to, the pupil's teacher, the pupil, whenever appropriate, the parent or legal guardian, a representative of the school district other than the child's teacher, who is qualified to provide or supervise the provision of special education, and other individuals at the discretion of the parent or agency.

1. A statement of short-term instructional objectives that describes the specific educational achievement to be reached by the end of the school year.

2. A statement of the specific educational services and instructional materials to be provided to such pupil.

3. A statement of appropriate objective criteria and evaluation procedures and schedules for the determination, on at least an annual basis of whether the instructional objectives are being achieved.

Implementation Process for Providing Free Appropriate Public Education For Children in Need of Special Education


I. Referral to Committee on the Handicapped Chairperson for Assessment
1. Referral prepared by
a. professional staff member of school
b. parent
c. judicial officer
d. individual from public or private agency
e. licensed physician
f. member of Committee on the Handicapped
I. Evaluation Arranged By Committee on the Handicapped Chairperson
1. Parental consent obtained
2. Specialist(s) enlisted for testing
3. Dates for evaluation set
4. Dates for Committee on the Handicapped meeting set
5. Notification to parents of Committee on the Handicapped meeting
III. Committee on the Handicapped Review and Evaluation
1. Presentation of assessment material
2. Identification of individual pupil needs. Phase I of Individualized Education Program developed
3. Placement recommendation made
IV. Individualized Education Program Planning Conference
1. Committee on the Handicapped Chairperson and parents determine participants
2. Committee on the Handicapped Chairperson sets date for Individualized Education Program Planning Conference
3. Committee on the Handicapped Chairperson insures the availability of appropriate professionals and parents and collects relevant data.
4. Individualized Education Program developed (Phase II IEP).
V. Instruction
1. Implementation of Individualized Education Program
2. Documentation of program
3. Interim conferences and adjustments
VI. Committee on the Handicapped Review and Reevaluation
1. Presentation of any new evaluation information every 3 years or annually if appropriate.
2. Determination of child's level of performance based on IEP.
3. Identification of individual pupil needs. Phase I of IEP developed.
4. Placement recommendation made.

DESCRIPTION OF PROGRAM SERVICES

The set of program services provides a range of special education alternatives from most to least specialized. Pupils may receive services within any one of the following program alternatives in combination with transitional support and/or related services as prescribed by the local Committee on the Handicapped and documented in the Individualized Education Program. A pupil should receive services as close as possible to the regular school program in keeping with the mandate of providing education in the least restrictive environment.

TRANSITIONAL SUPPORT SERVICES

The provision of special educational services required under this option is designed to insure that a child eligible for special education services benefits from regular program activities. Transitional support services are appropriate for a pupil in a special educational program with combined regular class instruction or for a pupil who is reentering a regular class program from special education and requires transitional support. Transitional support services shall be provided for a specific period of time. A written review by the Committee on the Handicapped should occur if the period of time expires but the child continues to need this service.

The Individualized Education Program developed by the Committee must document and reflect the specific type and extent of supportive assistance provided to the regular classroom teacher on behalf of the child's integration in the regular education program.

The following types of other instructional personnel might be involved:

- Speech pathologist
- School psychologist
- School counselor
- School social worker
- School nurse
- Administrative personnel
- Supervisory instructional personnel
- Other specialists

The regular education teacher or teachers must be provided appropriate planning time to modify the regular class instructional program on behalf of a pupil eligible for such services. The principal, on recommendation of the Committee on the Handicapped, shall determine who retains responsibility for the development of the Individualized Education Program while a child is receiving transitional support services.

Staffing Standard

The Committee on the Handicapped shall provide specific staffing for each service on an individual basis as documented in the Individualized Education Program.

RELATED SERVICES

A child eligible for special education may receive only related services if, in the determination of the Committee on the Handicapped, such a provision would fully meet the child's identified needs and result in maintaining the child in a regular class program. Related services may also be provided for a child in addition to placement in other programs. Related services are:

- Audiology
- Counseling services
- Occupational therapy
- Parent counseling and training
- Physical therapy
- School health services
- Social work services in schools
- Speech pathology
- Early identification
- Medical services
- Psychological services
- Recreation
- Transportation
- Other developmental, corrective, or supportive services.

This service alternative differs from transitional support services in that the child requires the direct support of a specialist to benefit from the regular education program. The type and extent of related service(s) shall be documented in the Individual Education Program as recommended by the Committee on the Handicapped. The Individual Education Program developed for a student receiving related service(s) may also reflect regular classroom teacher involvement and consultation as prescribed under transitional services. A schedule for delivery of related services is individually prescribed and may range from regular daily sessions to infrequent contacts. Services shall be provided so as to result in minimal separation from the regular education program. The delivery of related must be scheduled so that the child with a handicapping condition is not removed from classroom instruction for more than 20% of available instructional time. The other instructional specialists who deliver related services should assist in developing the Individual Education Program with all regular class and special education teachers involved with the child's program.

The Committee on the Handicapped shall specify in addition to the recommendation for related service(s) a daily schedule for implementing the service. Such a recommendation must include type, extent, daily duration, and instructional methods for the service.

Staffing Standard

Specific staffing for each service shall be prescribed on an individual basis by the Committee on the Handicapped as documented in the Individualized Education Program.

RESOURCE ROOM

The purpose of using the resource room is to provide maximum integration for a pupil in need of special education in the regular school program in addition to specific supportive assistance using small group instruction. The integration of the pupil into regular education should be increased as the student's ability to deal with the less structured environment of the regular class increases.

Supportive instructional services in a resource room may be augmented by transitional and/or related services at the specific recommendation of the Committee on the Handicapped as prescribed in the Individualized Education Program. The Committee must also specify for each pupil in a resource room the extent and type of integration in the regular program.

The primary role of the resource room special educator is to develop instructional materials and individualized lessons for implementation in accordance with the Individualized Education Program and to consult and work with the regular education teachers who provide services to the child. The independence level, instructional level, and frustration level for each pupil are important considerations which shall also be documented in the Individual Education Program. The resource room specialist functions as a special educator and also as an integral part of the regular education program. The resource room special educator shall assume responsibility for the development of the child's Individual Education Program with the assistance of regular class teachers.

Resource room programs are designed to be adjunct instructional services in combination with regular instruction. A pupil must therefore receive an opportunity for access to regular class instruction except for that time which the pupil would spend in a specialized program or service as prescribed by the Individualized Education Program.

Staffing Standard

Specific staffing for special education instructional programs should emphasize a maximum for each instructional group or instructional period, a maximum class register to include the concept of a full-time equivalent pupil unit*, with an emphasis on a differentiated staffing concept, including teachers and paraprofessionals.

*A full-time equivalent pupil unit is the percentage of time spent in special education. For example, a .50 FTE means that a student spends half-time in special education and half-time in regular education.

SPECIAL CLASS: COMBINED PROGRAM

Placement in a special class by the Committee on the Handicapped requires documentation, in the Individual Education Program, that the pupil's needs are of sufficient intensity to require the assistance of a special education teacher for the major portion of the school day. Special class placement may be in combination with transitional or related services.

A pupil placed in a special class combined program must be provided with an equal opportunity for access to regular program activities as that pupil would have if not in need of special education. All appropriate efforts must be made to assist the pupil's identification with peers in the regular school program, especially in nonacademic areas.

The major responsibility for planning and implementing the Individual Education Program for a child in a combined special class shall be assumed by the special education teacher.

SPECIAL CLASS: ALTERNATIVE SCHOOL PROGRAM

Special class alternative school programs are appropriate for the pupil who has been identified by the Committee on the Handicapped as requiring a comprehensive special education program in an alternative setting which precludes any benefits that may be derived from integration in the regular school educational program.

The Committee on the Handicapped shall document, in the Individualized Education Program, a specific justification statement for recommending the education of the child in an alternative setting. The justification statement must show evidence that the child's needs are of sufficient intensity that special education services cannot be effectively delivered in a special class program in a regular school building.

Related Services are an important consideration for a child with a handicapping condition receiving services in a special class alternative school program. The Committee on the Handicapped must develop the Individual Education Program with regard to the full range of related services. The provision of related services, if required by the pupil, should be carefully examined as one possible method of introducing less restrictive elements in the alternative setting.

SPECIAL SCHOOL PROGRAM: DAY AND RESIDENTIAL

In this program, alternative services are provided for a child in need of special education who requires an intensive instructional program and residential care in a public or private setting as determined by the Committee on the Handicapped and documented in the Individualized Education Program. This option may not be chosen unless the Committee on the Handicapped can document that the less restrictive options which have been reviewed are not appropriate to the pupil's needs.

Priority for such program placement shall take into account geographic proximity to the child's home, with out-of-state placements being considered only after the Committee on the Handicapped has documentation of refusal from in-state programs. The local Committee on the Handicapped must provide assurances that the child's needs cannot be met within least restrictive program options.

HOME OR HOSPITAL INSTRUCTION PROGRAM

In this program alternative the child in need of special education requires services in a home or hospital setting for a period of sixty days or longer, as determined by the Committee on the Handicapped and documented in the Individualized Education Program. This alternative would be a temporary provision in most cases. Instruction may be delivered by an itinerant teacher and must be scheduled at regular intervals which best meet the physical and instructional needs of the child. The specific recommendation(s) of a physician for the scheduling of daily activities are required in this program alternative.

The Committee on the Handicapped must provide specific assurances that the child's needs cannot be met in less restrictive settings.